

FISCAL IMPACT STATEMENT ON BILL NO. **S. 446**  
(Doc. No. 7143ahb07.doc)

---

TO:	The Honorable Glenn McConnell, Chairman, Senate Judiciary Committee		
FROM:	Office of State Budget, Budget and Control Board		
ANALYSTS:	Rodney Grizzle, Allan Kincaid and Harry Bell		
DATE:	April 2, 2007	SBD:	2007230

---

AUTHOR:	Senator Malloy	PRIMARY CODE CITE:	17-3-5
SUBJECT:	Indigent Defense Act		

---

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:  
A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:  
\$0 (No additional expenditures or savings are expected)

---

**BILL SUMMARY:**

Senate Bill 446 amends various sections of the Code of Laws of South Carolina, 1976, by enacting the "Indigent Defense Act". The Bill establishes circuit public defender selection panels and outlines the selection process and duties to be performed by the circuit public defenders.

**EXPLANATION OF IMPACT:**

Commission on Indigent Defense

This Bill is designed, in large part, to create parity between the prosecution and indigent defense systems within the State. The State currently provides support to both systems through the Prosecution Coordination Commission and the Office of Indigent Defense. General Fund State support for local Solicitor's Offices (excluding special programs) is approximately \$7,789,200. Of that amount \$3,215,000 is for salaries, fringe benefits and a \$500 a month expense allowance for the sixteen Solicitors. The State provides one assistant per Solicitor at a total cost of approximately \$588,600 for salaries and fringe benefits. General State support to the circuits is \$3,985,600 and is distributed on a per capita basis.

General Fund State support for the public defenders is comprised of \$4,688,651 which is distributed to the counties on a per capita basis. Therefore, the prosecution system is currently supported at \$3,100,549 above the amount provided to the public defenders. Assuming the per capita general state support to public defenders remains constant the minimum State General Fund impact can be estimated at \$3,803,600. This dollar figure represents appropriations for the sixteen Solicitors and their assistants.

Current staff in the Circuit Solicitor's Offices is comprised of 302 attorneys. There are 178 Public Defenders statewide. In 2006 there were 112,000 cases disposed of in General Sessions with the Public Defenders handling approximately 95,200 (85%) of those cases. With a staff of 178 attorneys the case load per attorney was 535 (95,200/178). The average caseload per attorney within the Circuit Solicitors Offices was 371.

Sixty-two attorneys (in addition to the 16 Circuit Public Defenders) would be needed to establish a caseload comparable to that of the prosecutors. Assuming a salary and fringe benefits cost of \$65,000 per attorney the cost for an additional sixty-two attorneys can be estimated at \$4,030,000. Therefore, the cost associated with this Bill can be estimated at between \$3,803,600 and \$7,833,600 depending the General Assembly's intent with regard to establishing a public defender system comparable to that of the prosecutors.

Prosecution Coordination Commission

The Commission indicates this Bill will have a minimal impact on the General Fund of the State, which can be absorbed by the agency at the current level of funding.

State Budget and Control Board – Judicial and Solicitor Retirement System

Section 17-3-510 (C) provides that the circuit public defender for each judicial circuit must be a full-time employee of the State and be compensated and have the same benefits as the circuit solicitor. This provision allows the circuit public defender to participate in the Judicial and Solicitor Retirement System. A review of this Bill by the Retirement System and its actuary indicates that passage of this Bill will not extend the amortization period or increase the accrued unfunded liability of the Judicial and Solicitor Retirement System.

**LOCAL GOVERNMENT IMPACT:**

Section 17-3 -550 states that no county may appropriate funds for public defender operation in a fiscal year below the amount it funded in the immediate previous fiscal year. However, the Bill does not mandate any additional cost of implementation be funded by the counties.

**SPECIAL NOTES:**

Data supplied by the Office of Indigent Defense indicates total county support for Solicitor's statewide is \$32.7 million while support for public defenders is \$11.4 million.

Approved by:

A handwritten signature in black ink that reads "Harry Bell". The signature is written in a cursive style with a large, stylized 'H' and 'B'.

Harry Bell  
Assistant Director, Office of State Budget